

Appl. No. 09/745,151
Amendment dated October 13, 2004
Reply to Office Action dated July 13, 2004

Remarks/Arguments:

The Final Official Action repeated the grounds of rejection from the first Official Action. Additionally, the Examiner prepared a response to arguments explaining why the original grounds of rejection were adequate.

The Applicant respectfully requests that the Examiner remove the Finality of the Official Action and consider the present response because the Examiner has failed to meet her burden of forming a proper rejection. Specifically, the Examiner is required to show every element directly in a single reference to form a proper rejection under 35 U.S.C. 102. For an obviousness type rejection under 35 U.S.C. 103, the references must teach or suggest all of the claimed limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the cited references, and not based on applicant's disclosure. MPEP 2143, p. 2100-121 (August 2001). The Applicants do not believe these requirements are satisfied by the grounds of rejection and the response to arguments prepared by the Examiner in the Final Official Action and therefore requests consideration of the present action.

More specifically, in the response to arguments, the Examiner admitted that Olkkonen uses codes to identify QoS (which the Applicants agree is clearly disclosed by Olkkonen). The Examiner also states Olkkonen teaches in another embodiment that the user of a TLLI number can determine QoS. In support of this position, the Examiner states that Olkkonen discloses that a TLLI number identifies each connection between the mobile station and the SGSN node (col. 4, lines 61-62) and that a subscriber may determine priority class based upon the connection (col. 4, lines 1-8). Therefore, the Examiner concludes that the "prior art, reads on the language as presently claimed".

The Applicant urges that this quoted language is not adequately clear to for a rejection under Section 102. Every claim element must be shown directly and clearly. At best, the cited passages of Olkkonen are vague in describing the relationship between QoS and TLLI numbers (unless a specified two-bit code or signal is used).

The claimed invention is particularly advantageous in that no interface changes are required (no specified codes or signals) because TLLI numbers are being used not only in their routine function of identifying a connection, but also to identify a QoS based upon a characteristic of the TLLI number (by being from a specified group of TLLI numbers). As such,

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QoS ratings may be inferred. Olkonen simply is not as clear as is required by the law to properly invalidate the claimed invention. Overall, the Applicants have provided a solution for delivering QoS ratings without requiring an interface change (without using a two-bit code or separate signal as taught by Olkonen). Olkonen teaches using specified signals for relaying QoS ratings in a clear fashion. Thus, if Olkonen actually considered implying QoS ratings as taught and claimed by the present application, one would have expected Olkonen to be just as clear about such an approach as he was about using the two-bit signals.

Regarding the Examiner's conclusion that using characteristics of numbers (for example, even or odd) to convey QoS information is obvious is also erroneous. The Applicants agree with the Examiner's admission that none of the references show using either even or odd numbers to identify a QoS. However, the Applicants do not believe that the Examiner has met her burden of forming a proper rejection under 35 U.S.C. 103 with a conclusion that using such a characteristic would be obvious without providing a reference that shows using characteristics of numbers to convey QoS in GPRS networks. The Examiner is required to provide a teaching that shows that using such characteristic to convey a QoS rating would be obvious. Looking back at the Applicant's teachings to form such a conclusion is impermissible.

The Applicants thus re-urge the arguments previously submitted. Further, the Applicants have amended the independent claims to clarify the manner in which the QoS rating is implied from the TLLI numbers. As such, the Applicants sincerely hope the Examiner will remove the Finality of the previous action and consider the allowability of the claims as amended. As each of the independent claims are amended to include limitations that are not explicitly shown in the cited art, the claims are believed to overcome the cited art.

Please direct any questions or comments to the undersigned attorney.

Respectfully submitted,

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